

REMARKS

Claims 3-6 and 8-9 stand rejected under 35 U.S.C. §112, Second Paragraph, as being indefinite. Claims 1-13 and 25-38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,451,390 to Goto *et al.* in view of U.S. Patent No. 6,225,601 to Beer *et al.* In the present amendment, claims 3-6 and 8-9 have been amended to improve clarity. No new matter has been added. After entry of this amendment, the pending claims are: 1-13 and 25-38.

35 U.S.C. §112, Second Paragraph Rejection

The Examiner has rejected claims 3-6 under 35 U.S.C. §112, Second Paragraph, for indefiniteness based on a lack of antecedent basis for “the organosilicate film.” Claims 3-6 have been amended to provide adequate antecedent basis, thereby rendering these rejections moot.

The Examiner has rejected claims 8-9 under 35 U.S.C. §112, Second Paragraph, for indefiniteness, because the term “thin organosilicate film” is a relative term. Claims 8-9 have been amended to remove the term “thin,” thereby rendering these rejections moot.

35 U.S.C. §103 Rejections

The Examiner has rejected claims 1-13 and 25-61 under 35 U.S.C. §103(a) as being unpatentable over the combined teachings of Goto and Beer. Applicants respectfully traverse this rejection.

In an office action dated November 6, 2002, the previous Examiner used the Beer patent in rejecting various claims in this application under 35 U.S.C. §103. The Applicants were successful in having the Beer patent disqualified as prior art based on 35 U.S.C. §103(c). For the Examiner’s convenience, Applicants’ 103(c) arguments and statements are set out in pertinent part below.

35 U.S.C. §103(c)

Under 35 U.S.C. §103(c), Beer is disqualified as prior art against the claimed invention. The instant application was filed after November 29, 1999, and at the time the invention was made, Beer and the claimed invention were owned by the same person or subject to an obligation of assignment to the same person. The Beer patent is assigned to

Applied Komatsu Technology, Inc., which at the time of the invention was wholly owned by the assignee in the present application, Applied Materials, Inc. Since the Beer Patent issued on May 1, 2001, less than four months before the present application was filed, the Beer patent is a reference under 35 U.S.C. §102(e) and not under 35 U.S.C. §102(a)-(d). Thus, under 35 U.S.C. §103(c) and MPEP 706.02(k), Beer is disqualified as prior art against the claimed invention.

Additionally, Goto is disqualified as prior art under 35 U.S.C. §103(c) against the claimed invention. The instant application was filed after November 29, 1999, and at the time the invention was made, Goto and the claimed invention were owned by the same person or subject to an obligation of assignment to the same person. The Goto patent is assigned to Applied Materials, Inc., as is the claimed invention. Since the Goto Patent issued on September 17, 2002, after the present application was filed, the Goto patent is a reference under 35 U.S.C. §102(e) and not under 35 U.S.C. §102(a)-(d). Thus, under 35 U.S.C. §103(c) and MPEP 706.02(k), Goto is disqualified as prior art against the claimed invention.

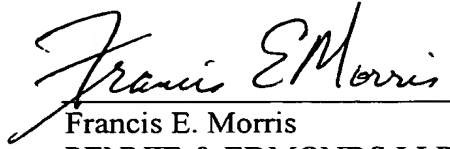
With the disqualification of both Beer and Goto under 35 U.S.C. §103(c), there is no cited prior art to support the rejection of claims 1-13 and 25-38 under 35 U.S.C. §103(a). Thus, claim 1 is patentable over the cited art. Claims 2-13 and 25-38 ultimately depend from claim 1. Thus, claims 2-13 and 25-38 are patentable for at least the same reasons that claim 1 is patentable over the cited art. For these reasons, Applicants respectfully request that the 35 U.S.C. §103 rejection, as it is applied to claims 1-13 and 25-38, be withdrawn.

In view of the foregoing, Applicants believe that all of the claims are now in condition for allowance and respectfully request the Examiner to pass the subject application to issue. If for any reason the Examiner believes any of the claims are not in condition for allowance, he is encouraged to phone the undersigned at (650) 849-7777 so that any remaining issues may be resolved.

No fee is believed due for filing this response. However, if a fee is due, please charge such fee to Pennie & Edmonds LLP's Deposit Account No. 16-1150.

Respectfully submitted,

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